

AA0003817483



UC SOUTHERN REGIONAL LIBRARY FACILITY

Digitized by the Internet Archive  
in 2008 with funding from  
Microsoft Corporation





# THE LAW OF MOSES



# THE LAW OF MOSES

By

EDOUARD NAVILLE

*Honorary Professor of the University of Geneva,  
and Foreign Associate of the Institute of France.*


TRANSLATED UNDER THE AUTHOR'S REVISION.

---

With Preface by  
HENRY WACE D.D.,  
Dean of Canterbury.

---

London :  
CHAS. J. THYNNE,  
Whitefrairs Street, E.C. 4.  
1922.







ES'  
1225  
N228

## PREFACE

In the Article which follows, a powerful argument is presented in support of the traditional belief of Jews and Christians, and, indeed, of all generations from the time of our Lord till about a hundred years ago, that the Five Books of our Bible, called the Pentateuch, are the Law of Moses. For these last hundred years, a school of criticism has prevailed in the Universities of Germany and England, which denies this tradition, and alleges that these five books are, in their present form, a compilation by Jewish scribes, after the Babylonian captivity, from writers so unknown that they can only be designated by letters, J., E., P., H., and so on, who wrote centuries after Moses. Nor is this the most important part of the critical theory. Such writers might tell the truth. But these writers and compilers together are said to have presented in the Pentateuch, to the Jewish people and the world, a radically false account of early Jewish history, and to have attributed to Moses legislation which came at a much later date. Voltaire once asked whether, if a sacred Book was found to state what was not true, it could be considered sacred. Strange to say, a large body of English

scholars have answered that question in the affirmative. But most foreign scholars, and most plain men in this country, answer it in the negative; and it has therefore become a vital matter to the question of the Inspiration and the sacred Authority of the Bible whether the critical theory is true. For some years past, the predominant view of Scholarship at our Universities has pronounced in its favour; and it is now becoming the fashion, even in text books for schools, to assume and teach its truth. But some eminent scholars have consistently disputed it, and have maintained that, at least in its broad outlines, the traditional belief of Jews and Christians is true, and that the course of Jewish history was what the authors of the New Testament, and a typical Jew like St. Stephen, believed it to have been.

The evidence in support of this traditional belief has been gradually accumulating, both abroad and in this country, and one of the most competent and ablest representatives of it has been the venerable scholar to whom these pages are due, M. Naville, Honorary Professor of the University of Geneva, and Foreign Associate of the Institute of France. He has long been eminent for his Archæological researches in Egypt, which have thrown a vivid light on the sojourn of the Israelites in that country, and since 1891 he has been Professor of Egyptology in the University of Geneva. Of late years, he has devoted earnest attention to the questions connected with the Pentateuch; and in 1915

he delivered an important series of Schweich Lectures on the Text of the Old Testament, in which he offered a radical opposition on various grounds to the whole critical view. This opposition has culminated in the article of which an English Translation is, with his consent and co-operation, here presented. It was published in the *Lausanne Revue de Théologie et de Philosophie*, of August and October, 1920, and was reprinted separately. M. Naville did me the honour to send me a copy, and I drew attention to it in *The Record* last year. But it seemed to me so valuable that I asked his leave to get it translated for the English public; and he was not only kind enough to consent, but carefully revised the translation himself, with my assistance.

The English reader, therefore, has before him in this Article a comprehensive and mature statement, by one of the most eminent Egyptian and Oriental scholars, of a view of the Pentateuch which asserts the substantial truth of the uniform belief of the Jewish and Christian Churches on the subject, and which urges the unreasonable and unhistorical character of the critical view now dominant. M. Naville, it may be well to add, is far from being alone on this question. To mention only one name, Dr. Koenig, the eminent and venerable Professor of Semitic Languages at the University of Bonn, though adhering to the German view of the various sources of the Pentateuch, maintains strenuously

the general veracity of the early Biblical narratives from Abraham downwards. This very year he has published a work on the *Theology of the Old Testament*, in which he begins by discussing the trust-worthiness of the ancient sources of the history of Israel, and concludes (p. 16), by saying that "confidence in those "sources, as reflecting historical reality, is fully "justified by a comprehensive, that is, a "genuinely critical examination." It is of great importance, in the present state of religious thought in England, that it should be known that such views are maintained by scholars of the highest authority abroad, as well as at home; and that what Bishop Butler said of the Christian religion may at least be similarly said of the old belief respecting the Bible: "that "it is not after all so certain that there is nothing "in it. There is, I believe, strong evidence of "its truth; but it is certain no one can, upon "principles of reason, be satisfied of the con- "trary."

H. WACE.

THE DEANERY, CANTERBURY, *Jan.*, 1922.

# THE LAW OF MOSES.

In former works I have upheld the principle that when such a book as Genesis is in question, we must in the first place examine what is its aim, to whom does the author address himself, what are the customs and habits of his time, what is the spirit which animates him, and in what environment does he live. The study of these things, according to quite a different method than that of the critics, has led me to the conclusion that Genesis could have been written by no one but Moses.

MOSES IS THE AUTHOR OF GENESIS. It was for him a duty and an obligation to relate to his contemporaries, and to leave to their descendants, the story of the deeds and events which formed a part of the very life of the people. They had to be told where they came from and how they came into existence. Then above all there had to be drawn up the foundation charter of the Israelitish nation, resting on the alliance of Yahveh\* with

---

\* Here as in my former works I have preserved for Jehovah or the Lord the name of "Yahveh," which is now in current use, although its accuracy has been contested since the discovery of the papyri of Elephantine and the potsherds of Samaria. Quite recently Mr. Cowley has shown that the ancient form of the word is "*Iaho* " or "*Iahou*," and that the tetragram is of post-exilic origin.

(Journal of the Royal Asiatic Society, April, 1920.)

Abraham, and renewed with his descendants Isaac and Jacob.

The Israelites had to be taught, with sufficient authority to produce firm conviction, that they were a people apart, called by Yahveh to high destinies; that they were only strangers in Egypt, and that the territory which had been promised to them was the land of Canaan.

It is very probable that they knew by tradition something about Abraham, Isaac, Jacob, and above all Joseph, to whom they owed their establishment in Egypt. All that, however, was centuries ago. Then they were only a family; since then they had become a great people, and doubtless they felt some attachment for the place where their fathers had lived and where their own children had been born. It is true they lived under a harsh and even cruel regime, and that the desire for deliverance might have kept alive in them memories which prosperity would have tended to efface, but there was always the hope that a change of sovereign might bring about some improvement in their condition. Was there then an adequate motive to make them leave the country, and would they not regret it later on?

It is obvious that Moses had some trouble in bringing them to a decision. To arrive at this he had to produce for his compatriots what I have called their patents of nobility, defining their character, and revealing to them their mission of which they could only acquit themselves in the land of Canaan. There alone would the covenant

alliance with Yahveh be realised, and there His promise would be executed. There you may see the aim of the book of Genesis, and the reason for its existence.

Moses however had not only to constitute Israel as a nation and a political individuality. He had to define their mission which was above all a religious one. He was to be the founder of a religion, to formulate on definite lines the worship of Yahveh as it was to be transmitted down the ages. Now what did religion mean to a primitive people? Doubtless, for us religion is above all an affair of belief and sentiment; it is almost always based on a body of doctrines. For the primitive peoples it was not so. There might indeed be in their religion a spiritual element, which is much more marked in that of the Hebrews than in others; but it is no less true that for them what constituted religion was the ceremonial, that which was external and visible in their worship.

Again, in our days, if one takes for example a heathen population in Africa or elsewhere, it worships the Great Spirit, its ancestors, or some fetish; there is its religion, that which is manifested only by a more or less materialistic cult or ritual. It is thus that this people shows that it is not without religion. Its beliefs may be childish, but they oblige it to perform outward acts which are its guarantee and manifestation. However rudimentary may be the religious sentiment and the conception of a divine being, the only thing which testifies to its existence is the outward homage



rendered to this divine being, which is often nothing but a shapeless fetish. There is no religion without a form of worship, and one may say that with a large number of peoples the form of worship alone is what constitutes the religion.

It seems then evident that, alongside of the Decalogue and of all the moral commandments concerning the relations of men with God, and the relations of men between themselves, there had to be a ritual law establishing what Yahveh demanded as regards ceremonies, offerings, and sacrifices, that which he claimed from his worshippers as outward observance. This it was that, in the eyes of the neighbours of the Israelites, the peoples amongst whom they dwelt, marked them as worshippers of Yahveh and distinguished them from the votaries of other religions. For the Israelites to be a distinct people they had to have something more than a political individuality; they had to have their own religion, and this religion could not consist only in moral and spiritual precepts, however grand and elevated. In conformity with the idea which was prevalent in those days, and which even in our own time is far from having disappeared, this religion had to be visible, and find its expression in acts which would make a worshipper of Yahveh recognisable.

MOSES HAD THEN TO GIVE A LAW TO THE ISRAELITES. It was a formal obligation imposed upon him by circumstances. It was the most important part of his task, from which he could not withdraw, and he understood very well indeed



what must be the effect of this religious law on the people itself, and on the opinion which strangers would form of the people. This is what he says to the Israelites shortly before leaving them :—" And now, O Israel, hearken unto the statutes and unto the judgments which I teach you . . . Behold, I have taught you statutes and judgments, even as the Lord my God commanded me, that ye should do so in the midst of the land whither ye go in to possess it. Keep therefore and do them; for this is your wisdom and your understanding in the sight of the peoples, which shall hear all these statutes and say :—Surely this great nation is a wise and understanding people. For what great nation is there, that hath a god so nigh unto them as the Lord our God is whensoever we call upon him? And what great nation is there, that hath statutes and judgments so righteous as all this law which I set before you this day?" (Deuteronomy iv. 1).

The Revised Version takes account of the technical sense of each of the categories included in the law. The Hebrew "*khoukkim*" is translated by "statutes" which signifies all the commandments which have no moral value in themselves, but which nevertheless must not be broken. The statutes which fill the book of Leviticus include all the directions concerning the construction of the tabernacle and its furnishings, the investiture of the priests, their vestments, and all ceremonial observances such as sacrifices.

It is these statutes, these commandments, which

will at once strike foreign peoples, and distinguish in their eyes the worship of Yahveh. That is why the Israelites are strongly urged to observe them with the same fidelity as other parts of the law such as the "*Mishpatim*," judgments, to the meaning of which we will return presently. These commandments are for them what the uniform is for the soldier, the characteristic sign of the worshipper of Yahveh.

The Israelites could not establish themselves in the midst of the Canaanites without a religious law, above all since they were taking possession of the country in the name of Yahveh, by virtue of an alliance which their God had concluded with their ancestor Abraham, to whom Yahveh had promised the land as a heritage, together with a numerous posterity. Even if one considers the account in Genesis as legends, it is impossible to misconceive the true character of Israel, and to forget that the part it was called upon to play amongst the nations was to proclaim the worship of Yahveh and to remain faithful to it. Now this worship could only be recognised by those who were not its followers by the ceremonies connected with it. It was from their point of view, as well as from the point of view of the people themselves, the guarantee that they were truly the servants of Yahveh.

It is impossible to repeat too often that for these ancient nations, and above all, for oriental ones, religion meant rites and ceremonies in honour of a being who was considered to be

divine. That fact is all that we know of a large number of these religions. What do we know for instance of the worship of Baal or of Moloch except by its outward manifestations? What did one of these divinities represent for its worshippers? In what consisted his relation with this being to whom he was obliged to offer human sacrifices, in which the victims were sometimes members of his own family? All that is a domain which is absolutely unknown to us, and into which we shall perhaps never penetrate.

The result of this is that apostasy means in the first place the abandonment of the ceremonies belonging to one Divinity in order to adopt those of another. There is no need to cite here the numerous prohibitions made to the Israelites as to serving strange gods, forbidding them to pollute themselves by offering sacrifices to them, or even to pronounce their names. Over and over again, even immediately after the death of Joshua, we find the description of this apostasy as told for us in the first chapters of the Book of Judges. "And the children of Israel did that which was evil in the sight of Yahveh, and served the Baalim: and they forsook Yahveh, the God of their fathers, which brought them out of the land of Egypt, and followed other gods, of the gods of the peoples that were round about them, and bowed themselves down unto them: and they provoked Yahveh to anger. And they forsook Yahveh and served Baal and the Ashtaroth" (ii. 11-13). We are told also that several nations had been left in

Canaan : " And they were for to prove Israel by them, to know whether they would hearken unto the commandments of Yahveh, which He commanded their fathers by the hand of Moses " (iii. 4). They hastened however to forget Yahveh and to serve Baal and other idols. The return to Yahveh which is often described at the epoch of the Judges and later, consists in taking away the high places, the statues of Baal and Ashtaroth, and of all that was used in the worship of strange gods.

One cannot picture Israel arriving in Canaan without a ceremonial law as well as a moral one. The existence of this ceremonial law, regulating the outward and visible cult, was all the more necessary as this cult, this ritual, was devoted to a deity of whom there existed no image or representation whatever. Alone of all the peoples in the midst of whom he was going to dwell, Israel would have no figure of his god, nothing to show his appearance. This, however, was one of the essential conditions of religion for his neighbours. An invisible god was something unique which existed only in Israel. And if the God of whom nothing revealed the existence had not had a sanctuary, priests, and a distinct ceremonial which he exacted from his worshippers, there would have been nothing to show that the Israelites had a God, and that it was their mission to preserve his worship, and to be the servants and worshippers of Yahveh.

THE LAW OF MOSES IS A WHOLE ; the ceremonial

law cannot be separated from the moral law, they are intimately bound up together, and the commandments relating to the cult are the outward manifestation with which the worship of Yahveh must be invested. The latter is the body of which the moral law is the soul. To maintain as the Higher Criticism does, that the whole of the ceremonial law, and the greater part of the commandments, such as those referring to leprosy, originated with the Priestly Code, that is to say were the work of a school of the post-exilic period, is to overthrow the whole edifice of the Mosaic law.

## II.

HOW COULD MOSES GIVE THIS LAW TO THE ISRAELITES? To answer this question we must go back to the time in which Moses lived, to the circumstances in which he had to accomplish his task, and to the people whom he had to lead and to make into a nation.

The Israelites left Egypt where they had been treated, above all latterly, as a people of slaves. So long as they were under the yoke of their masters they had no individuality as a people or a nation; and the laws which ruled them had to be those of the Egyptians. We know nothing as to their worship during their long sojourn on the banks of the Nile; it was perhaps a few vague traditions as to the alliance which Yahveh had made with their ancestors; but otherwise they had no ceremonial, and no sanctuary where they went to render worship to Yahveh.

Now they are about to establish themselves in Canaan in the land which was promised to them for a heritage. Instead of being shepherds they are to become a sedentary and agricultural people. No longer will they live in tents; they are to have houses, towns and the ownership of the land. In short, out of a tribe of nomads Moses had to make a cultured people; and, above all, everything that concerned religion had to be regulated, since its mission was primarily a religious one.

Doubtless Moses meant to wait until they reached Canaan, before teaching the people one part of his commandments, those, for instance, relating to property. When he realised that the sojourn in the wilderness was to be prolonged, when he knew for certain that he himself would not enter into the promised land, he completed his work, so that his successor would only have to follow the line that he had traced, and so that the people might establish itself in Canaan provided with a body of civil laws corresponding to the degree of civilisation to which it had attained, and above all in possession of a precise religious law which should be the characteristic mark of Israel.

Moses began his work as legislator shortly after the exodus from Egypt, and in the first place he had to establish that which was the basis of the existence of Israel, the cult of Yahveh. That is why, as soon as the people arrived at some distance from the land of the oppressor, in a region where, after the defeat of the Amalekites, he could believe himself safe, the legislator fixed the bases of the alliance of Yahveh with the people, the Decalogue, which is called the Book of the Covenant, and which begins with these words:—"I am Yahveh thy God, which brought thee out of the land of Egypt, out of the house of bondage." Soon afterwards he built the portable sanctuary, the Tabernacle, which was to be considered as the place where Yahveh dwelt, and where he would manifest himself by making his voice heard, for there was no image of the deity.

The rest of the law was to be given during the course of the journey, and one cannot but be struck by seeing how closely the written form in which this law is presented agrees with the circumstances in which it was drawn up. Here is a people on a journey, having no town or dwelling place other than their tents, no temple or palace in which, like Hammurabi, Moses could erect a great stone, bearing an entire code of laws systematically arranged. Besides, it is probable that a very small number of Israelites knew how to write, and in the wilderness it was difficult to procure what was necessary for that purpose. The law had then to be proclaimed aloud, it had to be taught orally, and it was only after having done this to the Israelites that Moses wrote it down.

Almost always a law is introduced with these words: "And Yahveh spake unto Moses, saying, Speak or Command . . ."; or simply: "Yahveh spake unto Moses and said . . ." Thus the whole law is above all to be proclaimed in speech. Afterwards, Moses will put down in writing what he has said; he will not read a text prepared in advance, for he is, as Dr. Kyle says, in the first place "a speaking prophet,"\* and he could not be anything else with the people he had to lead.

This law was not a code prepared by a school of jurists; it was not presented on one particular occasion to the people; it came into being in the course of the journey, and sometimes the circum-

---

\* "Moses and the Monuments," p. 67.



stances of the moment brought it into being or provoked its repetition. There is no systematic arrangement to be found in it, and no plan traced in advance. It is what Moses said and sometimes repeated, during the long years that the people spent in the wilderness. It is the orders that Yahveh charged him to communicate to the Israelites from time to time, sometimes on one point and sometimes on another; and the commandments are mixed up with fragments of history. Sometimes the event or the fact is related which has urged Moses to give certain instructions, to formulate a certain law, or to proclaim it again. Thus for example, Korah, a Levite, Dathan and Abiram rebel against Moses and Aaron, reproaching them with having arrogated to themselves authority to which they had no right,—“lifting up themselves above the assembly of Yahveh” (Numbers xvi. 3). Korah, who was a Levite, had got together a few acolytes who disapproved of Aaron and his family being charged with sacerdotal functions. After the punishment of the rebels, after a sign which shows that it is the family of Aaron which is chosen, Moses explains a second time, and with more detail, what are the functions of those who offer the sacrifices, and the functions of the Levites. This repetition was necessary, in order that the people might remember this commandment, and to avoid the possibility of another revolt of the same kind.

Israel had become a people in Egypt, a very numerous and powerful tribe, but so long as they

are still in the wilderness they are still a people of nomads and must be treated as such. The law can only be given to it as to a wandering tribe which must remember it, and to which it must be re-told, because there is no text to which it can have recourse. It is noticeable that what Moses says is often very short. Even when it is a question of a particular subject, the commandment is cut up as if the matter had been returned to on several occasions, perhaps at the moment when the object of it was to be accomplished. Thus in Leviticus the chapter about the feasts (xxiii.) ends with these words: "And Moses declared unto the children of Israel the set feasts of Yahveh." If we now examine how Moses explained what these feasts were to be, we see that no less than five times the chapter is interrupted by these words: "And Yahveh spake unto Moses, saying, Speak unto the children of Israel . . ." Thus Moses spoke five times on the subject of these feasts, perhaps at different periods, when the month and day came when the feast would be celebrated after the Israelites had entered Canaan, for these feasts could not be celebrated in the wilderness.

THE LAW IS THEN AN ORAL LAW WHICH THE ISRAELITES HAD TO REMEMBER, proclaimed little by little by Moses during the journey, and which had to be repeated occasionally in order to impress it on their memory.

The repetitions were necessary because Moses did not always address the same audience. He did not always have before him the whole assembly

of the people gathered together to listen to him. According to the time, the people might be more or less scattered, the pasturages to which they took their cattle were not always very near, and some of the people might not have heard what had already been said once. Moreover, in the course of years instructions which had been given to the fathers might have been forgotten by the children, so that it was necessary to repeat them, and as it is almost always a quotation from memory, the divergences between two versions of the same commandment are explained.

THIS LAW, HOWEVER, MUST BE PRESERVED, so that it may be passed on to future generations. Moses will therefore write it down, but only after having taught it to the people by word of mouth. The writing follows the word, and is nothing but the reproduction of it. Often it is at the positive order of Yahveh that he writes: thus the victory over Amalek (Exodus xvii. 14), then all the laws connected with the Decalogue (Exodus xxiv. 4; xxxiv. 27), or the marches of the Israelites from Egypt to the frontier of Moab (Numbers xxxiii. 2). But there are many other cases where it is said that Moses wrote, particularly in Deuteronomy, when he insists on the duty of the people to observe the law such as it is written in the book (Deuteronomy xxviii. 58), or when he threatens them with the terrible curses which it contains (Deuteronomy xxix. 20, 21, 27). The literary activity of Moses is reported in the two last chapters of Deuteronomy, where we are told twice

over that he wrote the law, or that he completely finished writing it and gave the book to the Levites.

The form of this book was evidently the only one which existed at that time in western Asia, a collection of cuneiform tablets written at different times, in different circumstances, and to which Moses had consigned the orders and commandments which he had transmitted to the people. With the commandments were mixed accounts of the circumstances which had caused their proclamation, or the episodes which had distinguished the long journey of which Moses had received the order to mention the stopping places. These tablets are a sort of journal extending over forty years, in which Moses sometimes wrote down the laws he had taught the people, and sometimes spoke of such and such an event which had taken place on the journey.

Moses has not written a legal code; he could not do so, and the form which he adopted is the only one which corresponds to the circumstances in which he found himself, and to the civilisation of the time. So long as he was journeying he could only draw up his tablets and make a collection of them which he calls a book. This collection, like all the archives of the time, had to be put together in a coffer of wood or earthenware, or in an earthen jar which he gave into the keeping of the Levites who bore the Ark of the Covenant of Yahveh, and which had to be placed beside the Ark of the Covenant. Like

the Ark of the Covenant, this coffer was to be a witness against the people (Deuteronomy xxxi. 6). If this book by its aspect and by its form had not had some distant connection with the ark, if it had not had to be carried in the same manner, if it had only been a roll of papyrus as certain authors pretend, it is not to the bearers of the Ark that it would have been entrusted. Of all the law it was only the Decalogue which was placed in the Ark; it was assumed to be written with the finger of God on two tables of stone which could not be very big since they were written on both sides.

Immediately after the arrival of Israel in the country beyond Jordan which had been given it by Yahveh, great stones were to be set up on Mount Ebal, and all the words of the law were to be written thereon, very clearly engraved. Joshua tells us how he carried out Moses' command (viii. 32). It was the first monument that the Israelites erected, and it established their taking possession of the land in which henceforth this law would rule.

Here, as for Genesis, it is important to imagine oneself back in the time when this law was promulgated, and to judge these writings, not according to the exigences of modern civilisation, not after the principles laid down by university professors, but according to the condition in which the people lived for whom this legislation was destined.

At this remote epoch and for a people like the

Israelites, the law is spoken, oral, and it is so for all literature. What was written was only the reproduction of what had been heard, so that it might be heard again. The composition and the style were governed by the exigences of speech, and not by those which are imposed on a work conceived in the silence of the study, according to a plan traced in advance, and destined to be read in a low voice or, as the ancients say, to be "seen," for the word reading was only used of reading aloud.

A BOOK WAS THEN SOMETHING QUITE DIFFERENT FROM WHAT IT IS FOR US. Ever since the Grecian epoch, a book is above all a written document, which has its special character, and an existence independent of the spoken language, and which has assumed the characteristic form of the literary language. We make a sharp distinction between these two ways of expressing thought, speech and writing. Each of these two elements is subject to rules which are not the same. And yet among the masters of ancient literature, Thucydides or Plutarch, who submitted themselves to the rules of the art of writing which they had helped to establish, still speak not of their readers but of their hearers.

In regard to this, the discovery of the Greek papyri has led to evidence which has a great importance for critical study.\* There are now a large number of papyri of Homer of which a

---

\* I owe this information to the kindness of Professor Victor Martin.

certain number go back to the epoch of the Ptolemies, and so are anterior to the Christian era. These papyri have furnished the Iliad with about a thousand lines which are not found in the text which it has been agreed to call the Vulgate. The literary value of these lines is extremely small, and they bring practically no new reading. They are additions which have often been taken from parallel texts, and which seem needless, or else simple repetitions sometimes very little different. These repetitions revolt the critics who scrutinize texts minutely, by basing themselves on the laws which a writer would not think of infringing, and on the exigences of the written style. They do not, however, shock the ear when they are read aloud, and the hearer often notices nothing: it is an experiment which has been made: "*verba volant.*" In the Pentateuch, the repetitions are one of the principal arguments on which the critics rely in order to affirm the existence of different authors.

In the time of Moses, when the art of writing was little developed and was the privilege of a limited number, one may say that the veritable written document did not exist. Writing had but one use and aim; it was the reproduction of the spoken word when such reproduction was necessary; it reflected the spoken language, with all the irregularities and imperfections which literary style has corrected or banished. Coming into existence long after the spoken word, it is still only the surrogate of the latter, in the sense that it



is destined to fix what has been said, and to keep it in remembrance so that it can be reproduced by reading aloud. It is not yet available for independent creations conceived on a pre-arranged plan, which have not before been read aloud and heard.

Moses had received a literary education. Brought up as the son of Pharaoh's daughter, he was instructed in all the wisdom of the Egyptians. But doubtless he knew what is generally called Babylonian cuneiform, to which the semitic scholars now gives the right name of "*Akkadian*," the language of the Tel-el-Amarna tablets. For at the court of the King of Egypt there must have been officials who could correspond with the nations of Asia in their own language like the modern embassy interpreters.

Moses may have made use of the Akkadian writing in other countries than Egypt, for instance, in the land of Madian. M. de Vogüé affirms that the Madianites spoke Aramaic or a very similar dialect; but written Aramaic did not make its appearance till the 9th century. It is at that moment that the Aramaic writing appeared for the first time. Before that, in all the countries where this Aramaic writing established itself, the Akkadian writing had preceded it and was the only one in use. In consequence Moses and Jethro, when they had something to write, both made use of the same kind of writing. It was also quite easy for them to understand each other, for it is certain that the Israelites had preserved the language of their fathers which distinguished



them from the Egyptians. They spoke a language which may be called Aramaic, but which was much like that we now call Hebrew or Aramaic. The written language for them, as for the peoples of Canaan, and for those of western Asia at this epoch, was Akkadian cuneiform.

Moses as a literary man, who had received a literary education, and who if he had been Egyptian would have had as the first title of his epitaph "The Writer," must have been a rare exception among his fellow countrymen. Writing could not play a great part in a population of shepherds. In consequence, every communication which he had to make to the numerous company he led, had to be made by word of mouth. If he had a law which they must know, or a commandment to transmit to them from God, he had to speak to them, and teach it to them, after which he recorded on tablets what he had said. He wrote down his teaching by degrees as he gave it, and he mixed with it accounts of different episodes of the journey. When he repeated a commandment or an instruction, it is infinitely probable that he did so from memory and not from his tablets. I think that a good part of Deuteronomy is composed of quotations from memory, especially the Decalogue. Much has been made of the fact that "the Decalogue does not present itself to us in the Pentateuch under a single form, whereas one would have expected a priori "that it would be preserved to us without alteration and without uncertainty." There is here a

literalness which is not exempt from pedantry, and a complete misunderstanding of the way in which the law is given to the people. There is no question of presenting to it a text of unyielding form such as a law in our own times, voted by a parliament, or a governmental decree in which the letter often outweighs the spirit. The Decalogue is the supreme teaching given to the people, and which it is bound to keep in remembrance. The important thing is that it should remember it and live in conformity with it, and not that it should obey a regulation drawn up "*ne varietur.*"

Certainly Moses, if anyone, ought to know the Decalogue by heart. Several times over he quotes one of the commandments and comments upon it, showing how it should be applied and how it answers to the circumstances of the moment. In the hour of his death, when he is going to leave the Israelites for ever, and when he insists with great force on the duty laid upon them to observe the commandments, it is natural that he should begin by repeating to them the Decalogue. For that there is no need for him to fetch from the ark the two tables of the law so as to re-read them word for word, as modern critics would have him do. He quotes them as they come into his mind, as he knows and understands them. If we compare the two versions of Exodus and Deuteronomy we see that the foundation is absolutely the same, and the order also. What is different is what I would call the developments or additions to the

commandment, that which justifies it or shows its sense and aim, and which also facilitates the remembrance of it. This is not a part of the commandment itself, and this is why there may be variations, according to the moment when the Decalogue was quoted.

I repeat, the Decalogue of Deuteronomy bears all the characteristics of a quotation made from memory. We are quite wrongly told that "the text of the Decalogue according to Deuteronomy differs notably from that of Exodus." There is no difference in the commandments themselves; they are identical in form and in spirit. That which is not the same in the 4th, the one about the Sabbath, is what I have called the developments. In Exodus, the Sabbath goes back to the Creation; in Deuteronomy the seventh day has a high moral aim; it is to recall the deliverance from the Egyptian bondage, and out of gratitude the Israelite will give rest to all under his authority, the servant, the stranger, and even the cattle. In the 5th, Moses emphasises the words: "Honour thy father and mother," adding, "as Yahveh thy God hath commanded thee." But how, I ask, does that change the sense of the commandment? It is impossible for me to attach any importance to the fact that in the 4th commandment rest is to be granted, not only to the cattle in general, but to the ox and the ass, or that in the 10th, Deuteronomy puts the woman before the house, or that the four last commandments are connected by the conjunction "and." These are trifles that are not

worth the trouble of attention, being an ordinary effect of the spoken language. Moses speaks, he addresses men, the great mass of whom have never had a written text before their eyes. The prophet reminds them of the words of Yahveh which he has often repeated in whole or in part, but which probably only a small number of them heard on Sinai. The essential is that they should remember the commandment itself: "Six days shalt thou labour and do all the work that thou hast to do, but the seventh day is the Sabbath of the Lord thy God." As to the commentary that Moses adds to it, it may have varied according to the occasion. Exodus reports one which is much more extended (xxxii. 12-17). The Israelite knows that he must covet nothing which belongs to his neighbour, and when Moses quotes the things to which this prohibition refers, what does it matter that he begins with the woman or the house, and that only once he mentions the field?

In short, if we carry ourselves back to the circumstances of the times, it stands out clearly that Moses could not give the law to the Israelites otherwise than as it is presented to us in the four last books of the Pentateuch. It was a series of orders, instructions or lessons, often without any immediate connection, a teaching given forth in fragments during the course of the journey, and written in Akkadian on tablets in order to preserve the remembrance of it. The law was at first this collection of tablets entrusted to the bearers of the Ark, by the side of which it was placed.

That is what is in conformity with the time, and with the customs of a people which is still a wandering nomad, one without any fixed dwelling. It was the same sort of thing as the family documents which nomad tribes then possessed, and which are still found among primitive peoples to-day.

Nothing less resembles a code, or the usual and normal form of a collection of laws than the "*torah*" of Moses. And at this epoch, with a people like the Israelites in the wilderness, it could not be different. The law is indeed that of Moses; what is not his is its division into four books, the arrangement of the tablets, which according to Hebrew tradition may be attributed to Ezra.

It seems likely that he was the author of this arrangement, who is called "a ready scribe in the law of Moses which Yahveh, the God of Israel, had given" (Ezra vii. 6) ". . . who had set his heart to seek the law of Yahveh and to do it, and to teach in Israel statutes and judgments" (id., verse 19).

It is difficult to grasp the principle which has guided Ezra in this division into four books. The chronological order has only been imperfectly followed, for sometimes, as for instance in Numbers, as Mr. Wiener has shown, the sequence of facts has been inverted. Here again it must be remembered that Moses and Ezra were not writing books of history, but were pre-occupied by quite other aims. Provided that Ezra knew the law of Moses accurately, it mattered little to him at what moment Moses gave it out for the first

time. It was indeed for him the law of Moses. He tells us so several times, and in particular it was the law of Moses that he read before the people assembled at the request of Nehemiah (Nehemiah viii. 1). The theories of the Higher Criticism have not yet brought us to reject his evidence.

### III.

THE LAW OF MOSES IS DESIGNATED BY A GENERAL NAME, "*torah*," which has a very extended meaning, and by which the Jews understand the five books of Moses, although Genesis contains no law properly so called. This word is applied to the Pentateuch because these five books include in a whole everything connected with the law. "*Torah*" properly speaking, means "instruction." "Instruction" means in the first place the action of instructing someone in something, but it is also used to designate the indications furnished as to the conduct of an affair. Thus into the use of this word an idea of finality is introduced, and that is what exactly characterises "*torah*" . . \* It is certain that in many cases the juridical or legal character of the word hardly appears; thus for example the long chapters in Leviticus which describe leprosy, the signs by which it may be recognised, and the means of purification, are called the law (*torah*) of the plague of leprosy, or the law of the leper in the day of his cleansing. There the word "*torah*" corresponds rather to what we should call directions or instructions. In other cases, on the contrary, when the word "*torah*" is in the plural, the obligation which characterises the law stands

---

\* "Lucien Gautier, La Loi dans l'ancienne Alliance," p. 16.

out clearly from the object to which the word is applied.

The "torah," however, is subdivided into categories of which the limits are well fixed, each one with its distinctive name, which is preserved in the English Revised Version.

These different categories are the object of a recent work by Dr. M. G. Kyle.\* With the help of a lawyer, the learned author has determined the technical legal meaning of the different words used in the Pentateuch, which are translated indifferently by law, statute, or some other word which does not take into consideration the distinction made in the Hebrew. There are in the first place a certain number of words in general use, first of all "torah" which is usually translated by "law." In the same way as in English, "*the law*" may mean the whole of the orders to which we must submit, while "*a law*" is only a part, and often quite a limited one which bears upon a definite object, and of which there is a great number.

The "words" of Yahveh have often the significance of a commandment or a law. Dr. Kyle only gives a quite general meaning to this word, but I wonder if one ought not sometimes to see in it the supreme commandment, the strongest expression of the will of Yahveh. The ten commandments, which are the crowning edifice of the law, are called in Hebrew "the ten words"

---

\* "The Problem of the Pentateuch," Oberlin, Ohio, 1920.



(Deuteronomy x. 4), and were assumed to have been pronounced by Yahveh himself (Exodus xx. 1), and also written with the finger of God (Exodus xxxi. 18). It must be remembered that with nations like the Israelites there is a great lack of abstract words, which have to be replaced by something which can be perceived by the senses. An abstract idea is rarely separated from its outward manifestation by the word. A positive and decided will must, for the ancients, reveal itself by a commandment or an order. God willed that there should be light is expressed by: "and God said: Let there be light!" In the same way the ten "words" are the ten expressions of the formal and positive will of God, which cannot undergo any change.

The words "covenant" and "testimony" are also employed according to Dr. Kyle as comprehending the law as a whole. However, in most cases these two words only designate the Decalogue; thus the name of "tables of testimony" is given to the two tables of stone on which the ten commandments were inscribed.

But there are words with a very definite technical sense, which Dr. Kyle seems to us to have exactly characterised. We have in the first place what the English version translates by "judgments," according to the literal sense of the Hebrew "*mishpat*," which means "that which is pronounced," "the sentence of a judge." Each of these maxims must have been originally pronounced by what were known as the judges. This

pronouncement made a precedent, and thus established a customary law which had all the more effect and authority since there was then no written law and no real judicial authority. Moses, speaking of the choice of the judges whom he had set up over the people, thus describes the instructions that he gave them: "And I charged your judges at that time saying, Hear the causes between your brethren, and judge righteously between a man and his brother, and the stranger that is with him" (Deuteronomy i. 16). According to that the judges would have had above all to decide the lawsuits brought to them. In cases of special difficulty they were to refer to Moses, or later on to the priests and Levites.

If we pass in review the list of all the "judgments" which is presented to us immediately after the Decalogue, we see that their characteristic feature is a moral element. They concern that which is good or bad in itself, "*mala in se*." The failure to observe one of them is the violation of a moral law, it is a sin. That is why it is necessary for the pronouncements to be impartial, and for the judges to let themselves be influenced neither by presents nor by respect of persons, but only by a sense of justice. Thus the choice of these men who are to "judge the people with righteous judgments," is for Moses a duty of which he feels all the gravity, upon which his father-in-law Jethro insists when, advising Moses to relieve himself of a part of his task which otherwise would be beyond his strength, he says to him: "Thou

shalt provide out of all the people able men, such as fear God, men of truth, hating avarice . . .” (Exodus xviii. 21).

As Dr. Kyle says, the technical meaning of the word “judgments” appears all through the Pentateuch; it designates a group of laws which cannot be confused with any other, and which may be easily distinguished, even when it is mixed with others or when it has no special title.

One might add that it is not only a question of the principles to be applied in case of lawsuits, but also of those to which those who govern are bound to conform; for what are called judges in the Old Testament are the men who, before the monarchy, were temporarily at the head of the people and had to lead it.

The judgments are for the most part in the chapters of Exodus (xxi.—xxiii.) which follow the proclamation of the Decalogue. It may be admitted then that a part of them constituted the ancient custom of the Israelites and was incorporated in the law. But there are others which have in view the establishment in Canaan, when the people will have become settled, such as all those that refer to property, houses, or fields.

Another category of legal dispositions, which the English version renders by “statutes” (Hebrew, “*khok*” or “*khoukkah*,” generally used in the plural “*khoukkim*”), consists of all the statutes and laws which regulate persons and things, and also the worship; it is those which we should call the personal and real statutes, and the

ceremonial. It is the largest part of the Mosaic law. It is forbidden to infringe them because it is the established law, but they are not like the judgments which rest on a moral element and are founded on justice. The "*Khoukkim*" are civil laws; we might almost say that these laws touch upon the administrative domain; but above all, in a state which was to be a theocracy, they regulate everything which concerns the worship, feasts, ceremonies, ritual, and sacrifices. Here the technical meaning of the word is clearly defined, and it is impossible to confuse the "*khoukkim*" with the "*mishpatim*," or with the commandments. The "*mishpatim*," judgments, and the "*khoukkim*," statutes, are the word of which the technical character is the most marked.

In one or two cases we find the two words united to express a kind of ordinance which has something of the character of both categories. Thus the institution of the cities of refuge is a "*khoukkat mishpat*," "statute of judgment" (Numbers xxxv. 29). The choice and designation of the cities is an administrative ordinance of the class that we should call secular. But this institution of the cities of refuge has a special aim, that of making justice prevail and of preventing it from being violated by a penalty wrongly inflicted in case of homicide. It was thus that the institution of the cities of refuge partook of the character of the "*mishpat*," judgment, as well as of the simple statute.

The case of the daughters of Zelophehad

(Numbers xxvii. 1-11) is particularly interesting because it shows the origin of the "*mishpatim*." These young women present a claim to Moses. Their father had died in the wilderness, he had taken no part at all in the revolt of Korah, and yet as he had had no son his name would not continue in the tribe, and his daughters would have no heritage. The case is a hard one for Moses who lays it before Yahveh. Yahveh replies by pronouncing that the claim of the daughters of Zelophehad is a just one, and for the occasion He prescribes to Moses a series of regulations concerning inheritance. This law of inheritance is really a judgment, since it is founded on what the supreme judge pronounced in circumstances when the right course of action was doubtful. At the same time it is a statute which is to continue for ever.

Having fixed the technical meaning of the words used in Mosaic legislation, Dr. Kyle examines the special character of each of the categories of laws, of which, like Mr. Wiener, he recognises three. These are first of all the ones he calls "mnemonic," that is to say which must be committed to memory, and which have in general a concise and clear form, not lacking elegance. We find in them even a tendency to poetic parallelism. This category is composed of commandments and of what we have called judgments, which have some resemblance with the customary law, and which the judge must know by heart.

A second category is composed of what Dr. Kyle

calls "descriptive" laws, that is to say those which regulate certain institutions, and above all, the ceremonial. Kautzsch, who attributes these laws to one of the authors of the documentary theory, thus defines the style:—"Unlimited breadth, research of even minute details, legal formulas, and a real schematism." This judgment seems slightly exaggerated, but it is certain that it has justification, for instance, in the description of the tabernacle. The descriptive character which marks these laws as a whole cannot be denied.

The last category is what he calls the "hortatory" laws, the exhortations formulated in the tone of the legislator who addresses himself to the people, and who, in the most forcible language, charges them to observe the laws, pointing out the happy consequences which will result from doing so, or on the contrary the terrible misfortunes which will be brought about by disregarding these laws. Almost the whole of Deuteronomy belongs to this category.

This division is not absolute, and certain laws might justly be classed in two of these categories; the lines of demarcation are not rigorously drawn; but that is the exception. Thus several of the laws repeated in Deuteronomy have not the oratorical tone of other parts of the book, of which nevertheless they form a part. Here it is a question of a general characteristic of which the dominant features are easily recognisable.

It is clear that these different kinds of laws are conceived in a different style and with a vocabulary

which is not the same, not only in so far as they bear upon objects of very dissimilar nature, but also because they are not always addressed to the same people. The same orator, whether he is a politician, a judge, or a preacher, uses quite a different style, and does not make use of the same words according to the audience he is addressing. This variety of style and vocabulary is one of the principal arguments on which the documentary theory relies. Each of these styles is said to be the peculiarity of a different author. The division into three according to the nature of the laws, as Dr. Kyle presents it, fits in exactly with the three great documents the existence of which is assumed by the theory. The mnemonic laws, the commandments, the "judgments," are attributed to respectively J.E., to the Elohist and to the Yahvist; the descriptive laws, that is to say, all the secular ordinances and the ceremonial, belong to the Priestly Code, a post-exilic document; and lastly, the laws of exhortation are comprised in Deuteronomy, a work of the time of Josiah or only slightly before.

Dr. Kyle, who, as he tells us, in beginning this study had no idea of refuting the documentary theory, is led to the conclusion that these differences of style and vocabulary are absolutely explained by the very nature of the laws, by their aim, and by the character of those for whom they were designed, and that in consequence there is no need to have recourse to the hypothesis of the documentary theory, which may be put on one side as a



quite useless supposition.\* Thus, by following quite a different road from ours, Dr. Kyle has also arrived at the unity of authorship for the Mosaic law.

---

\* Dr. Kyle combats the documentary theory in a series of lectures given at Princeton, and collected in one volume under the title of "Moses and the Monuments, Light from Archaeology on the Pentateuchal Times," Oberlin, Ohio, 1920.



#### IV.

We have shown above how Moses wrote the Law, and how at that epoch and in the circumstances in which he found himself he could not do otherwise. In spite of the abrupt and fragmentary form under which it is presented to us, the law of Moses is a whole, of which the different parts hold together; they are not fragments of different dates and authors collected by one or more editors, at the pleasure of the critics.

THE LAW OF MOSES IS THE CONSTITUTIVE CHARTER OF THE RELIGION OF THE ISRAELITES, that is to say, of their existence, for Israel was a people set apart to practise the cult of Yahveh as its mission. "Ye shall therefore keep all my statutes and all my judgments and do them. . . . I am Yahveh your God which have separated you from among the peoples" (Lev. xx. 22, 24). "Yahveh shall establish thee for an holy people unto Himself, as He hath sworn unto thee; if thou keep the commandments of Yahveh thy God and walk in His ways" (Deuteronomy xxviii. 9). "And Yahveh hath avouched thee this day to be a peculiar people unto Himself, as He hath promised thee, and that thou shouldest keep all his commandments" (Deuteronomy xxvi. 18). "But Yahveh hath taken you, and brought you forth out from the iron furnace, out of Egypt, to be unto

Him a people of inheritance as at this day " (Deuteronomy iv. 20). Passages such as these in which this fundamental idea is expressed might be quoted in great numbers.

In order that Israel might acquit itself of its mission it was necessary for it to establish itself in the promised land, and to do so it had to leave Egypt; and that is why it is so often said of Yahveh that he brought his people out of Egypt. It is the first guarantee which He gave his people of his settled intention to fulfil his promise, and the most striking visible sign which He gave of his power, in promising them to surmount all the obstacles which might prevent them from quitting the land of bondage.

The summit of the mosaic law, or, if you like, the head which dominates the whole body, is the ten " words," the Decalogue. Moses begins by proclaiming the fundamental truth which is at the base of the whole of the Old Testament. There is but one God, Yahveh Elohim, and there is none other. But it is not only for Israel that there is but one God, it is for all humanity. Moses has already proclaimed it when he told of the creation of man. From the moment of man's appearance, the name of his God is Yahveh Elohim. It is true that according to the critics it is not so. The text of the 2nd chapter of Genesis must be amended. It should be Yahveh alone. Elohim is a recent addition due to an unknown personage who is called the editor. Nevertheless, in the time of Nehemiah, when the Levites make a prayer in

which they pass rapidly in review the principal events which preceded the establishment in Egypt, after having said that Yahveh alone created the heavens and the earth and all that therein is, they continue :—" It is Thou, Yahveh Elohim, Who hast chosen Abram." Here again as soon as man is mentioned, the name of God becomes Yahveh Elohim.

It has been said that the Decalogue was above all negative, but it is forgotten that the first words make this fundamental assertion :—"I am Yahveh thy God, which brought thee out of the land of Egypt, out of the house of bondage." From this assertion proceed several which naturally have a negative form. Yahveh is the only God of Israel, and consequently no other god is to be placed beside him or to be worshipped. This prohibition is renewed over and over again in different forms which all come back to this :—"Thou shalt have none other gods before My face."

What may be called one of the most characteristic features of the religion of Yahveh, is that there was no likeness of the divinity, contrary to what could be observed in the cults of all the nations which surrounded the Israelites. There was no image whatever of Yahveh; idols were an abomination to Yahveh, even though made of precious metals. In the detailed form of the second commandment may be seen a very clear allusion to what the Israelites had seen in Egypt :—"Thou shalt not make unto thee a graven image, nor the likeness of any form that is in the heaven

above, or that is in the earth beneath, or that is in the water under the earth : thou shalt not bow down thyself to them nor serve them." These identical words occur again when Moses repeats the commandment. It is evident that he had in his mind all the animals worshipped by the Egyptians, the birds of Horus or of Thoth, the rams or the bulls of Amon or Apis, the crocodiles of Sebek, and many others.

It is certain that a visible form of the divinity was the basis of the pagan religions, it was even a need, they could not understand a cult or worship being addressed to an invisible being. And that is what the Israelites had the greatest difficulty in accepting. In their history they are seen ceaselessly falling into idolatry. And already in the episode of the Golden Calf, what urges them to violate the commandment is the need of having a god which they can see with their eyes :—" Make us gods which shall go before us," they say to Aaron. The latter has no intention of abandoning the cult of Yahveh, for after having built an altar he cries and says :—" To-morrow shall be a feast unto Yahveh." But he yields to the desire of the people to have an idol, to embody Yahveh, and he chooses the form that a good number of them must have had before their eyes, the bull Mnevis of Heliopolis.

The third commandment is also in agreement with the ideas of the time, respecting the divinity to whom one must have recourse by oath. This god is the being by whom one must swear, his name being the guarantee of the truth of the words of

him who invokes him. We find in Egyptian inscriptions oaths in the name of Amon or of Ra. Even among the Hebrews, it is evident that to swear by Yahveh is one of the distinctive signs of his worshippers:—"Thou shalt fear the Lord thy God . . . and by His name shalt thou swear" (Deuteronomy x. 20). In that time, says Isaiah (xix. 18, 19) "There shall be five cities in the land of Egypt that speak the language of Canaan, and swear to Yahveh of Hosts. . . . In that day shall there be an altar to Yahveh in the midst of the land of Egypt. . . ." Thus the oath and the altar are the two characteristics of the cult of Yahveh.

In regard to this, it is probable that the Hebrews of the time of Moses did not differ much from the Orientals of to-day. Everyone who has lived among them has certainly been struck by the fact that the idea of truthfulness is very weak among them; the lie is not judged and condemned with the severity it deserves, even when it is preceded by an oath. It is not rare to hear an Arab pronounce these words:—"Allah el Azim," "by Almighty God," at the very moment he is going to tell a lie. It is evidently that which the commandment was to forbid: thou shalt not call Yahveh to witness in the moment when thou art about to lie. Such is, it seems, the original meaning of the commandment, the literal application of which is justified in our days as much as in those.

The following commandment is the institution of the Sabbath. It terminates the series of those

which refer to Yahveh. The Sabbath is not an institution like the rest, like any ordinance of ritual or ceremonial. It is remarkable what great importance is given to the observance of the Sabbath. It is the most marked outward token that the Israelite recognises Yahveh as his God, and that he wishes to serve and obey Him. "Verily ye shall keep My Sabbaths: for it is a sign between Me and you throughout your generations; that ye may know that I am Yahveh which sanctify you. Ye shall keep the Sabbath therefore; for it is holy unto you . . ." (Exodus xxxi. 12). That is why the violation of this commandment is punished with death, in the same way as idolatry (Numbers xv. 32), as is shown also in the abridgment of the first commandments: "Ye shall make you no idols, neither shall ye rear you up a graven image, or a pillar, neither shall ye place any figured stone in your land, to bow down unto it: for I am Yahveh your God. Ye shall keep My Sabbaths, and reverence My sanctuary; I am Yahveh" (Leviticus xxvi. 1). This custom which was not in use in other nations, must have impressed them and thus characterised the worshippers of Yahveh in the eye of strangers.

Thus the four first commandments complete and develop the preliminary affirmation: "I am Yahveh thy God." This Yahveh is the only God of the Israelites, who must not worship any other; He has no visible form, and they are forbidden to give him any. His name must never be invoked to enforce a lie, and he demands that his wor-

shippers should show that they recognise him for their God and that they will submit to him, by strictly observing the Sabbath.

The following commandments contain the principles which are to regulate the relations of men among themselves, the duty of honouring parents, the prohibition of murder, adultery, and theft. The next one forbidding false witness is well in keeping with the customs of the time. At that time when judicial institutions did not exist, when there were not the thousand ways of establishing a crime which are now at our disposition, the proof had almost always to be oral testimony, a declaration charging the accused with the fault. From this it follows that the spoken word had then a much more serious character than in our days. False evidence might have fatal consequences for the man against whom it was directed. And that is why it is put into the same rank as the three other offences which precede it. The Hebrews were not alone in regarding it in this way. In the great civil and penal code of Hammurabi, with which it is quite possible that Moses was acquainted, the three first articles punish false witness with severe penalties.

The tenth commandment, as far as we know, is peculiar to the Mosaic law. It prescribes that feelings which might lead to murder, adultery, or theft should be controlled. It is, if I may be allowed the expression, a sort of moral prophylactic; to abstain from covetousness is to preserve oneself from the crimes to which it leads.



There then is the foundation of the religion of Israel, the ten words of Yahveh which establish the principles on which its religious and moral life will rest. Ordinary commonsense tells us that if Moses is to be the religious legislator of Israel, if the people is to reach Canaan in order to establish itself there and practise the worship of Yahveh, that is the way to begin : to teach the Israelites that Yahveh is their God, and to obtain from them a promise to serve him. These solemn words are inscribed on tablets of stone which will be carried with what in the wilderness serves as a sanctuary, for the Decalogue is the vital point of the whole law.

In this regard, putting aside every kind of religious consideration, the account in Exodus corresponds exactly to what must have taken place. Moses wished to establish the religion of Yahveh, and he wished the people of Israel to be votaries of it. Already in Egypt, when he was striving with the king that he might let the people go, the motive he put forward was the worship to be rendered to their God :—" Thus saith Yahveh : Let My people go that they may serve Me." "We will go three days journey into the wilderness and sacrifice to Yahveh our God " (Exodus viii. 20 and 27). So, after the deliverance, when the people has nothing more to fear from either Egypt or Amalek, he immediately begins to lay the foundations of this religion, and first of all, the corner stone of the edifice, the ten commandments. That a text of so great value should be written and



preserved with greater care than the rest of the law, is perfectly natural.

What immediately follows the ten words is a series of what is called in Hebrew the "judgments" (*mishpat*), that is to say, the principles of law and equity which the judges were to apply in lawsuits or in doubtful problems, and which involved a moral idea. After that come the "statutes," the "*khoukkim*,"\* which are sometimes civil laws, instructions about leprosy, and above all about the ceremonial, the building of the tabernacle, the setting apart of the Levites as priests and of the family of Aaron for offering the sacrifices, and all the ritual concerning the sacrifices. All this was taught and written successively in the course of the journey, and often owing to the circumstances of the moment.

We have insisted above that, for the ancients, a religion often only consisted of a more or less coarse ceremonial, and that a religion could not be conceived without an external form of worship. The ceremonial was necessary to Moses, it was as it were the garment of his religion, by which it might be recognised. He could not do without it, and that is why he composed and instituted it completely. And the fact which shows the value which he attached to the ceremonial is that he urges its observance in just as strong terms as he does the rest of the law. One might quote a large number of passages, above all in Deuteronomy, in

---

\* The Vulgate generally translates "*khoukkim*" by "caeremonias" and sometimes by "mandata," or "praecepta."

which, when Moses insists on what is the first duty of the Israelites : to keep the commandments of the law ; this law he divides into several parts, very often into two, the statutes (*khoukkim*) and the laws, judgments, (*mishpatim*). “ Thou shalt execute my statutes, Thou shalt observe my laws and do them ” (Leviticus xxv. 18). “ Now O Israel, hearken unto the statutes and the laws or judgments ” (see also Deuteronomy iv. 5, 8, 14 ; v. 1 ; xi. 32 ; xii. 1 ; xxvi. 16). In these passages, the “ statutes ” always precede the “ judgments ” ; it is an indication of the value they have in the eyes of the speaker. We find the same thing about Ezra : “ Ezra had set his heart to seek the law of the Lord and to do it, and to teach in Israel the statutes and judgments also ” (Ezra vii. 10). In the letter of Artaxerxes it is said that Ezra is intrusted in the knowledge of the commandments and statutes of Yahveh (Ezra vii. 11).

Sometimes we find “ commandments ” and “ statutes ” (Deuteronomy x. 12 ; xxvii. 10 ; xxviii. 45). At other times the law is divided into three parts, the “ testimonies ” (R.V.) (*edoth*) being added to the two others,—the “ statutes ” and the “ judgments ” (Deuteronomy iv. 44 ; vi. 20), or the commandments, literally the orders (Deuteronomy vi. 1 ; vii. 11 ; viii. 11 ; xxx. 16). Once (in Deuteronomy xi. 1) we find four words : —“ his charge ” (lit., that which thou hast to observe), “ and his statutes and his judgments and his commandments.”

Thus we see that the law forms a whole, and

although it may have come down to us in separate pieces, it none the less constitutes a whole, a body of which the Decalogue is the head.

The first form of this law is reproduced in Exodus, Leviticus and the book of Numbers; those books contain the first tablets written by Moses, the account of the journey in the Wilderness, in the course of which he proclaimed the law of Yahveh to the Israelites, all of which is partially repeated in Deuteronomy. As we have said, we accept the rabbinical tradition on this point: it is Ezra who put these tablets in this order, and classified them in books. This work was done before he left Babylon to go back into the land of Canaan. Elsewhere we have maintained that Ezra translated the law of Moses into Aramaic, and that later on the rabbis turned it into the vernacular tongue of Jerusalem by adopting the square Hebrew, the alphabet which was peculiar to them.

It is clear that from these two modifications, changes of detail have been produced in certain words, or certain geographical names, which would not have been understood at the period when the last version was written. Here and there explanatory glosses may have been introduced, and the arrangement of the tablets may perhaps not be absolutely chronological. But all that does not affect the whole, which is the work of Moses, his words and his writings, the latter presented in the only form they could assume in the time of Moses and in the special circumstances in which he found himself.

This work is completed and strengthened by what is now the fifth book of the Pentateuch, the book of Deuteronomy, which, according to what Hebrew scholars teach us, is called "the repetition of this law."\* Here again if we carry ourselves back to the period, if we replace the book in the environment and the conditions in which it is said to have been composed, we shall find complete agreement. The particular form of Deuteronomy is perfectly explained, and was rendered necessary by the circumstances.

In all the commentaries on Deuteronomy, and in all the theories about its origin and date, no attention is paid to the fact that the Mosaic legislation is an oral legislation: it was proclaimed by Moses to an Israel which was an assembly of hearers. This law was listened to by the Israelites, as we are told, a hundred times over; it was thus that they learned to know it, and they had to keep it in remembrance. Doubtless Moses will draw it up on tablets which will be entrusted to the care of the Levites and of which they will deposit somewhere, as has been the case for a great number of cuneiform tablets which have been preserved to us, but the Israelite had no copy in his tent nor later on in his house. What he knew of the law was what was engraven on his memory. Now, it is well known that this faculty is much more developed in men who have no writing than with those who can have recourse to notes. The-

---

\* Driver, "Deuteronomy," Introduction, p. 1.

memory of nomads such as those of Arabia is simply amazing.

All the same Moses might have reason to think that the remembrance of this law had become more or less effaced amongst the Israelites. Besides, at the end of the long journey in the wilderness, he was speaking to a generation which was no longer that which had been present at the scene on Sinai; that of the men of war, which we suppose means those old enough to carry arms, had disappeared (Deuteronomy ii. 14). Imagine the feelings that filled Moses' soul at the moment when he addressed them for the last time. Israel was at last about to enter into the land which had been promised them, they had already conquered a small part of it. Moses himself was not to enter in; he knew that the crowning point of his career was refused to him, and that he would only see this good land from a mountain top. Israel would be henceforth left to itself. They would have no longer the guide they had followed for forty years, who had founded its religion, the worship of Yahveh, this worship which was the exclusive property of the people and the reason for its existence.

It is easy to understand what anxiety must have haunted him. It is true that Joshua was to be his successor, but would he be strong enough, would he have enough authority, to keep the people in the way which had been traced for it, in the worship of Yahveh? For if Israel abandoned this worship it would perish, it would be absorbed by the

neighbouring peoples, it would cease to be the elect of Yahveh, separated from the other nations by the law and the ordinances which had been laid down. And thus, what one might almost call the pet child of Moses, which he had snatched from the oppression of the Egyptians, which for forty years he had led through numberless difficulties, but which was now to enter into possession of its heritage, this favourite child, Israel, would march to certain ruin.

Thus Moses feels urged to address his last instructions to the children of Israel, and he does it with a warmth of language inspired by the fact that he is going to leave them. The words of Moses,—for so the book is called,—begin with a rapid historic glance over the last forty years, over the experiences through which he and the people have passed. He repeats the Decalogue, and comments on it, he adjures the Israelites in the strongest terms to keep the commandments of Yahveh, and not to be unfaithful to him as they were when they made the golden calf and on other occasions. Sometimes he quotes a commandment or a law which he follows up with an exhortation or a promise, at other times he calls to mind an episode of the journey in the wilderness. In all this first part of the book which goes as far as Chapter 11, there may be recognised the orator who gives play to his feelings, who does not follow a regular plan, but who is possessed by the idea that for the Israelites the observation of the commandments of Yahveh is a question of life and

death. He lets himself be guided by the strength of his feelings; he repeats himself, he comes back continually to the future that is before the Israelites : " Behold, I set before you this day a blessing and a curse; the blessing if ye shall hearken unto the commandments of Yahveh your God, which I command you this day : and the curse, if ye shall not hearken unto the commandments of Yahveh your God . . ." (Deuteronomy xi. 26). In the whole of this part it is clear that when he quotes the commandments he does so from memory. This is so particularly in the case of the Decalogue; he does not go and fetch the two tables of the Law, of which he says that he put them into the Ark and that they remained there (x. 5). This is the explanation of the slight divergencies that there are between the text of Exodus and that of Deuteronomy.

In the rest of the book, in what is properly the legislative part of it, Moses is more exact; one might think that he has recourse to his tablets (xii. 28). As always, these are laws proclaimed before the united assembly. Here then there are notable divergencies, which are explained by the moment when the laws were promulgated. At Sinai, they were still far from the promised land, the organisation of the worship was their most important pre-occupation. In the land of Moab, at the end of the journey, it was an accomplished thing; there was no need then to repeat the description of the tabernacle, any more than other laws or instructions such as those which concern



leprosy : “ Take heed in the plague of leprosy, that thou observe diligently and do according to all that the priests the Levites shall teach you : as I commanded them, so ye shall observe to do ” (xxiv. 8). Thus he sees no need to remind them of the detailed instructions reported in chapters 13 and 14 of Leviticus, further than to say that he has given them and that they are to be respected.

Certain laws appear for the first time, such as those which concern the kings. To the critics this is an irrefutable proof that Deuteronomy is of an origin much later than Moses, and can only date from the time when the monarchy was established. This law, however, like many others, has the future in view, and not the present state of things. Israel is about to find itself in the midst of peoples who are all under the dominion of kings, of whom it has already overthrown several. It is likely that one day Israel will follow this example and wish to have a king at its head. The law is drawn up in view of this possible eventuality :—“ When thou art come unto the land which Yahveh thy God giveth thee, and shalt possess it and dwell therein ; and shalt say : I will set a king over me, like as the nations that are round about me . . . ” (xvii. 14). This king is to be an Israelite, he is not to have a multitude of horses like the king of Egypt, nor a numerous harem which might turn him aside from the right path, nor great riches, and above all he is to study and cause to be read to him the law of Yahveh, that he may keep and do it.



Another law, eagerly invoked by the critics to establish the recent date of Deuteronomy, is what has been considered as the centralisation of the worship, and the commandment to have only one sanctuary. The commandment is thus conceived (xii. 5): “. . . unto the place which Yahveh your God shall choose out of all your tribes to put his name there, even unto his habitation shall ye seek, and thither shalt thou come: and thither ye shall bring your burnt offerings and your sacrifices. . . . Ye shall not do after all the things that ye do here this day, every man whatsoever is right in his own eyes. . . . But when ye go over Jordan, and dwell in the land which Yahveh your God causeth you to inherit. . . . Then it shall come to pass that the place which Yahveh your God shall choose to cause his name to dwell there, thither shall ye bring all that I command you. . . . Take heed to thyself that thou offer not thy burnt offerings in every place that thou seest: but in the place which Yahveh shall choose in one of thy tribes, there thou shalt offer thy burnt offerings, and there thou shalt do all that I command thee.”

Already in Exodus (xxiii. 19) we find the order to bring as offerings the first fruits of the earth “to the house of Yahveh thy God,” and the following:—“In the holy place shalt thou pour out a drink offering of strong drink unto Yahveh” (Numbers xxviii. 7). The essential condition for the execution of the commandment in Deuteronomy is that there should be a place

chosen by Yahveh where his name should dwell. Moses, when he spoke thus, seemed not to doubt that when every Israelite had his dwelling, there should be one for Yahveh. Now this did not come to pass before the time of Solomon. Until then, the Ark was always wandering. Nathan says to David :—" Thus saith Yahveh : . . . I have not dwelt in an house since the day that I brought up the children of Israel out of Egypt, even to this day, but have walked in a tent and in a tabernacle" (II. Samuel vii. 6). Thus what Moses foresaw had not yet been accomplished. Yahveh had no house until Solomon built the temple. And in order to establish without dispute that this was the place which Yahveh had chosen from among the tribes to put his name there, that this was his house, Solomon, imitating the custom of the kings of Egypt and Assyria, put in the foundations a copy of the whole or part of Deuteronomy. There was no better way of marking that his temple was " the house " of which Yahveh had said to David and to Solomon his son : " In this house, and in Jerusalem, which I have chosen out of all the tribes of Israel, will I put my name for ever " (II. Kings xxi. 7). There was the book of the law which was found by Hilkiah the High Priest, when great repairs were made to the temple under Josiah.

It was not on one occasion only that Moses pronounced the discourses which form Deuteronomy. Several times it is said that he called the assembly together that it might hear the commandments. After the properly legislative part, come

the blessings and the cursings, then the renewal of the Covenant, terminating by calling upon them solemnly to choose between life and death, between blessing and cursing. Afterwards Moses calls Joshua, and hands over to him the leadership of the people, then he finishes writing the words of the law, and entrusts the book to the Levites, who are to take charge of it and to put it beside the Ark. After this he recites a song which describes in magnificent terms the future relations of Yahveh with Israel. This song takes its inspiration from the commandments, and above all from this one : —“ There is none other God but Me,” and by its poetic form it would be easily retained in the memory.

As with Jacob, his last words are the blessing that he addresses to those whom he could consider as his family,—his sons are the twelve tribes that he names individually,—then he ascends the mountain where afterwards not even his body is found.

I will not dwell upon the manner in which Deuteronomy was written, as it is not really of any great importance. As a whole the book is his word, of which he wrote out the greater part, as he had done for all the legislation on the course of the journey in the wilderness. Certain portions look as if they were the title or the summary of what is going to follow, and may have been added by whoever put in order the tablets of Moses. It is evident that the last chapter was not written by

him, and perhaps not even that describing the blessing of the people.

Nevertheless we do not hesitate to affirm that Deuteronomy is by Moses. Eichhorn already maintains that the book can have no other author. If we throw a general glance over Moses' achievements as leader and head of the people and as legislator, we see that the discourses in Deuteronomy are the natural and normal finish of his career. After having taught for years a law of which he felt the value, and the observation of which was a vital question for Israel, when he was about to abandon this people and leave it to itself, Moses could not do otherwise than remind it in pathetic terms that its very existence depended on the observation of the commandments of Yāhveh. He had to leave this remembrance to the Israelites to whom he had devoted himself all his life. It was the last duty that he had to fulfil. One might justly be astonished if his life had not ended by such a farewell. The critics find that the language of Moses on this occasion differs from his usual manner of speech, and that it more resembles the tone taken by the prophets. Does the father of a family when giving his last commands, on his death bed, to those dear to him, speak in the same way as he did during his life-time when he was giving them directions as to their conduct? Moses was in an analogous situation: Deuteronomy is the word of a dying man.

If we recall the career of Moses, all the vicissitudes through which he had passed, the task he

had had to fulfil, the difficulties he had had to overcome; if we reflect that the ruling passion of his life was the establishment in Canaan of the people of Israel and the institution of the worship of Yahveh, we cannot help recognising to what a degree Deuteronomy is in harmony with what Moses was, and that this end was a fitting close to his life. Deuteronomy is indeed Mosaic, and we have seen that the same thing is true for the four other books. That is why in spite of the sarcasm of the critics, I do not hesitate to declare that the Pentateuch is the work of Moses.

## V.

It now remains for us to examine briefly what the critics have put in the place of the legislation such as it is presented to us in the four last books of the Pentateuch.

We must first of all realise this fundamental fact : for them there is no Mosaic legislation at all. This majestic edifice which we believed to have been raised by Moses, is nothing but a construction of recent date, to which has been given an antique patina, a varnish of old age, in order that it might inspire respect in those who considered it, and who thus attributed to it a much more remote origin than it has in reality.

And here more even than in the case of Genesis, I can only reject absolutely this way of dealing with documents, and, as Fustel de Coulanges says, of judging facts from an entirely personal and modern point of view, according as they agree with what the critic regards as possible or likely. What distinguishes the French historian's school from the Higher Critics is a fundamental divergence in method, and a totally different view of the laws of history.

The Mosaic legislation is contained in four books. In the first it is said several times over that Moses wrote down first of all the victory over Amalek, and then the commandments on tables of stone and the laws for the use of the judges, called

“*mishpatim.*” At the end of Leviticus (xxvii. 34) it is said: “These are the commandments which Yahveh commanded Moses for the children of Israel in Mount Sinai.” There is the same thing at the end of Numbers (xxxvi. 13): “These are the commandments and the judgments, which Yahveh commanded by the hand of Moses unto the children of Israel in the plains of Moab.” As to Deuteronomy, it is already said in the title that these are the words which Moses addressed to Israel beyond Jordan, and at the end of the book it is said that Moses finished writing the laws and gave it to the Levites that it might be placed beside the Ark.

We have mentioned above different occasions when it is said that Moses wrote, but what one finds far more often is that Moses spoke to the children of Israel at the order of Yahveh. This is repeated to satiety all through the four books. Sometimes in the same chapter we find two or three times in a short space the words: “Yahveh spake unto Moses and said: Speak thou . . .” or “Thou shalt say . . .” In this long sequence of laws there is not a single commandment or a single instruction which is not declared to have come from the lips of Moses who himself taught it to the people. No other person is ever mentioned as having made or proclaimed laws. The Decalogue alone had been pronounced by Yahveh himself. One wonders how it could have been more clearly stated that Moses was the author of this legislation. One could understand doubt if it had only been said

once or twice in passing, but from one end to the other of the books it is repeated profusely.

Sometimes people speak of the "tradition" which attributes these books to Moses. This word can at the utmost be applied to Genesis, the author of which is not named; but in this case it is a question of a written assertion which is constantly repeated. And later on when the law is referred to, it is called the law of Moses. At the moment of his death, David makes a last recommendation to Solomon:—"Keep the charge of Yahveh thy God, to walk in his ways, to keep his statutes (*Vulg., caeremonias*), and his commandments (*praecepta*), and his judgments (*judicia*), and his testimonies (*testimonia*), according to that which is written in the law of Moses" (I. Kings ii. 3). It is in conformity with the law of Moses that Jehoiada purified the temple (II. Chronicles xxiii. 18). It is the commandments which Yahveh gave to Moses that Hezekiah sets out to observe (II. Kings xviii. 6), and according to which he celebrates the Passover (II. Chronicles xxx. 16). Manasseh is unfaithful to the law of Moses (II. Kings xxi. 8). Josiah, on the contrary, returns to Yahveh . . . "according to all the law of Moses," (II. Kings xxiii. 25) after Hilkiyah had found in the temple the book of the law of Yahveh given by Moses (II. Chronicles xxxiv. 14). Zerubbabel on returning to Jerusalem built the altar of burnt offering according to that which was written in the law of Moses (Ezra iii. 2). Ezra was a scribe ready in the law of Moses (Ezra vii. 6). He is asked to



bring from Babylon the book of the law of Moses given to Israel by Yahveh, which he reads afterwards before the congregation (Nehemiah viii.). Daniel also in his prayer twice alludes to the law of Moses (ix. 11, 13).

This evidence, taken from the epoch of Moses and later, seems fairly conclusive, if we are willing "to take the texts as they were written, in the proper and literal sense." They would certainly be considered more than sufficient for any document which was not, like the Pentateuch, supposed to be re-made according to a system to which it must be adapted. This evidence, as it stands, is rejected in entirety by the Higher Criticism, which says we have in no commandment the word of Moses written by himself or by one of his hearers. Moses the legislator and his work is the creation of a certain number of authors of very different dates. First of all there is the Judaic author J, the Yahvist who lived in Judea, according to some in the 9th century, according to others in the 8th. His writing, which is chiefly historic, contains only very few legislative dispositions, an abridgment of the instructions relating to the Passover, and a few of the laws called judgments. The Elohist E, an Ephraimite of the 8th or 7th century, according to the authors of the theory, reports the Decalogue and all the laws (*mishpatim*) which were enacted at the same time. He describes at full length the scene on Sinai when the commandments were proclaimed. The legislative part of his writing,

although not long, has none the less a great importance as it is above all the Decalogue.

Not being able to distinguish E's part of the text from what belongs to J, the critics have recourse to a new author designated JE, whose work is sometimes known as the "prophetical narrative" (Bennett). He is supposed to have lived about 630 B.C. A greater number of commandments and laws is brought to us by the discourses of Moses in Deuteronomy. Most of the critics attribute it to a pious Jew who, afflicted by the idolatry of the people under Manasseh, composed a religious and ceremonial law which he placed under the name of Moses. He hid the volume in the temple where it was found by Hilkiah in the reign of Josiah.

The greater part of the legislation, in particular all the ceremonial, is the work of a school of priests or jurists living at Jerusalem after the return from exile, and having the new temple in view. This is what is called the Priestly Code.

From this it follows that there is nothing written of what is still called the Mosaic legislation previous to the few fragments reported by the judaic author of the 9th century. We must not then pay any attention to the passage in the Book of Kings where David recommends Solomon to keep all that ought to be kept (*φυλακὴν* lxx.), the law of which he enumerates the four categories, "*according to that which is written in the law of Moses.*" There was no written law at this epoch, and above all Moses had written nothing. It is impossible for

the critics to accept a passage so utterly contrary to their system.

Let us now briefly examine each of these writings, except J and J E in which the legislative portion is of little importance, and we will do so by founding our remarks on the principle formulated by a critic, Dr. Briggs\* which differs very little from our own:—"the writing must be in accordance with its supposed historical position as to time and place and circumstances." That is what we have always maintained, the texts must be put back into the times when the author lived, into his environment with its manners and customs. In spite of the counsels of Dr. Briggs, it seems to us that the Higher Criticism has hardly followed this method.

Let us begin with the Elohist. It is to him that we owe the Decalogue and all the laws proclaimed at the same time. He is an Ephraimite author living after the kingdom of the Ten Tribes had been separated from Judah. He must then have lived at Samaria which was the capital of the kingdom, or at Bethel where Jeroboam had set up his worship. He was of those for whom the inhabitants of Jerusalem had nothing but antipathy. How did this Ephraimite succeed in gaining possession of the text of that part of the law which dominated all the rest by its elevation, and which was the real base, the corner stone, of the religion of the Hebrews? And the text of the

---

\* "The Higher Criticism of the Hexateuch," p. 4.

Ephraimite has even been considered as the original text, since that of Deuteronomy is only the repetition of it. Where did he get it? Certainly not in the Samaritan Pentateuch, which, according to the system, ought not to have existed any more than that of the Hebrews. One cannot suppose that he had had access to the tables of stone placed in the Ark, if they had been preserved.

Thus according to the Higher Criticism, the inhabitants of Jerusalem, the priests of the temple, of the house that Yahveh had chosen to place his name there, owed the first written text of the Decalogue and the moral laws, not to one of their own people, not to one of the Levites set in authority to keep the law, but to a stranger, an inhabitant of the schismatic kingdom where they worshipped the golden calf or Baal. For as the text would be of a late epoch, it would date from the century in which Josiah lived or little before. Before this the Israelites had no written law except the few fragments reported by the judaic author, in which there are several observations as to the Passover and a sort of summary in which are mixed one or two of the commandments, some laws and ceremonial ordinances (Exodus xxxiv. 1-18). And in writing these commandments what aim had the Ephraimite in putting forward a legislator whom he calls Moses? Whom is he addressing? Whom does he wish to influence, and what authority could he have over his hearers? How could he have succeeded in making

people accept his laws as categorical commandments to which it was their imperative duty to submit? It is impossible to find a reply to such questions.

Instead of these unlikely and strange suppositions of the Higher Criticism, is it not much more reasonable to accept simply what the text says? Moses wrote the Decalogue on tables of stone which were placed in the Ark. As for the rest of the law, he also wrote that according to the manner of the time, on tablets which he handed over to the Levites to place beside the Ark.

We have seen that Deuteronomy, the last discourses and the farewells of Moses to the people, corresponded absolutely to the circumstances in which we are told it was composed. We will not attempt to refute in detail the hypotheses which have been put forward on the author and on the date of the book. They all start from the idea that it is a book conceived and drawn up with a definite aim, whereas, like all the Mosaic legislation, and with a still more marked character than the other books of the Pentateuch, it is the reproduction of Moses' speech, it is the word of Moses in writing. The word preceded the written text, which is only intended to recall it, and it is not a premeditated work with a plan traced beforehand by the author.

The critics emphasize the divergences there are between Deuteronomy and the preceding books. No attention is paid to the fact that it is a legislation promulgated at different moments, the

language of one man who could not be absolutely the same on leaving Egypt as after forty years spent in the wilderness, and after all the experiences through which he had passed. Moses had been able to see how easily, during these forty years, the people abandoned the worship of Yahveh, and that is why he strongly insists upon Israel's obligation to observe the commandments of Yahveh, and upon the vital consequences which fidelity to the cult of Yahveh, or on the contrary the rejection of His law, would bring about. The legislation of Deuteronomy, still more than that which preceded it, has the future in view; it is intended for the Israelites when they were established in Canaan. It could not then, in many points, be identical with that of the wilderness. The Hebrew text shows the difference when it indicates the commandments given to Moses on Mount Sinai (Leviticus xxvii. 24; Numbers ix. 1, and elsewhere), and those which he pronounced in the plains of Moab (Numbers xxxvi. 13; Deuteronomy i. 5).

The critics quote phrases which should prove the origin of Deuteronomy to be later than Moses. Here is one, for instance, which Koenig says is one of the most evident traces of this fact (xxvi.). The chapter begins thus:—"When thou art come in unto the land which the Lord thy God giveth thee for an inheritance, and possessest it, and dwellest therein. . . ."—It is a question of the future, which Moses will not see.—Then thou shalt bring thy firstfruits to the priest, and



then thou shalt speak and recall first of all the benefits that Yahveh hath given you. . . .\* “and Yahveh brought us forth out of Egypt with a mighty hand and with an outstretched arm . . . and he hath brought us unto this place and hath given us this land.” This is what could not have been said by Moses, but is certainly due to a more recent author.

Doubtless, if this phrase is isolated from its context, it may be so, but when it is put in its right place, it is seen to be an integral part of the instruction given by Moses to the Israelite for his establishment in Canaan.

It is of no use to insist on a proof such as that.

Another phrase on which the same critic relies in order to contest the Mosaic origin of Deuteronomy, is that in which we are told (iii. 11) about the iron bedstead of Og, the king of Bashan. This phrase, I agree, was certainly not written by Moses. But we must go back to the way in which the ancients wrote, and in which their writings have been preserved to us. That Moses wrote himself the largest part of the book, above all the legislative portion, is positively declared, but it is quite possible that some fragments of his discourses were drawn up by one of his hearers, either Joshua or someone else who knew how to write. Later on these tablets were put in order, probably by Ezra as we have said before.

---

\* The above lines are not quoted literally; they are a summary of verses 2 to 8.—*Translator's Note.*



We will not return to what we have maintained in several works: that Ezra, in conformity with the habits of Assyrian or Babylonian scribes, had translated into Aramaic some writings in Akkadian cuneiform, and that afterwards about the time of the Christian era, the rabbis had transcribed them in square Hebrew. Even the critics who absolutely reject the idea that the first written copies of the Old Testament were drawn up in Akkadian cuneiform, and who insist on finding from the beginning the Hebrew of the present Bible, cannot deny that there must have been at a certain moment an important transformation, that of the ancient writing into square Hebrew. At that moment there may have been, as well as in the writing, some slight changes intended to modernise the text, as we should call it, and make it more comprehensible to that epoch.

For us the explanation seems quite simple; it may be that either Ezra, or the Rabbis who translated the text into the language of Jerusalem, made certain additions to it, to make it more easily understood. There are first of all the titles, such as the first verses of the book; then here and there what we should call notes and put at the bottom of the pages, but which they incorporated in the text, for they did not know how to do otherwise. These notes do not modify in any way the text itself, and give no indication as to the date of the books, any more than when we publish an ancient author, the explanatory notes that we add are a

proof that this author cannot be previous to our own time. What is said of the iron bedstead of king Og, is a note of this kind. I should say that the same is true of verses 6 to 9 of Chapter x., which interrupt the discourse of Moses.

It should be mentioned what it is, in Deuteronomy, that supposes the existence of laws given previously. I will quote only one example, that which is said about lepers (xxiv. 8). "Take heed in the plague of leprosy, that thou observe diligently and do according to all that the priests the Levites shall teach you: as I commanded them so shall ye observe to do. Remember what the Lord thy God did unto Miriam . . ." Thus, all the long instructions regarding leprosy, and the choice of the tribe of Levi to be the priests, all this already exists, and Moses recalls it without going into the subject again; it is obvious that he has more urgent things to say to Israel. The words of Moses seem clear enough, yet the critical school attributes all these long instructions which fill several chapters of Leviticus, to the Priestly Code, which is the post-exilic work of the legal or clerical school of Jerusalem, and they affirm that Deuteronomy does not presuppose the legislation of P. It seems to us, however, that this passage is quite clear.

Of all the writings which are supposed to be found in the four last books of the Pentateuch, there is not one which answers so badly as the Priestly Code, called P, to the conditions put for-

ward by Dr. Briggs.\* According to Driver, the author is a priest who describes the age of Moses as an example of the principles which should regulate an ideal theocracy. "The Priestly Code is of an epoch later than Ezekiel. That does not mean necessarily that it was 'manufactured' by priests during the exile. It is based upon customs pre-existing in the temple, and shows the form they had taken at a later time."† The legislation of P is in harmony with the spirit which shows itself in Ezekiel and sanctions the practices which began with the return from Babylon.‡ Driver quite admits that Moses was the founder of the national and religious life of Israel, that we owe to him the Decalogue and the book of the Covenant, and that he also established some of the religious institutions such as the priesthood of the Levites. Later on these principles were developed, "and when the sacerdotal caste had acquired a permanent centre by the foundation of the temple of Solomon, it is probable that the progressive development and the systematisation made more rapid progress."§ However, the laws of P, even when they contained recent elements, were attributed to Moses, doubtless because fundamentally and originally the Hebrew legislation came from him, and had only undergone gradual modifications.

---

\* See page 26.

† Introduction to the "Literature of the Old Testament," 3rd Edition, p. 135.

‡ Driver, l.l., p. 131.

§ Driver, l.l., p. 146.

Dillman,\* in characterising P, calls it:—"a learned writing based on research, calculation and reflection and showing a varied knowledge, with a strong tendency to systematisation and a schematic form." The author doubtless belonged to the central class of the priests of Jerusalem. It is difficult to assign a fixed date to the writing, because of the transformations and extension it underwent during the period of the exile, and later, as revealed in Exodus, Leviticus and Numbers. Certain parts of Genesis must however go back to the time of the Kings.

According to Dr. Skinner† the Code is the production of a school of legal writers whose task was to systematise the mass of ritual ordinances which had accumulated with the priesthood of Jerusalem, and to develop the theory of religion which could be drawn from this. It seems likely that the author was Ezra, and that it was his work which he read at the celebration of the fast ordained by Nehemiah.‡

There is no need to quote other critics, for opinion is almost unanimous as to the Priestly Code being a post-exilic work.

Let us now examine the theory by replacing the book in the epoch when it is affirmed to have been composed, and in the circle to which it was addressed. We are told of systematisation, of codification of customs or of ancient command-

---

\* "Genesis," 6th Edition, p. 11.

† "Genesis," Introduction, p. 57.

‡ Skinner, l.l., p. 66.

ments, which go back to Moses, and which would have been extended and completed after the return from exile. But I ask, do we ever see legislation presented in this form? And could there be anything further from a code and a system than the four last books of the Pentateuch? If the priests really had the intention of forming a legislation, what reason could have urged them to adopt this strange form?

If they had wished to codify the laws of Moses, to make them into a whole such as the system which is suggested to us, they would have begun by establishing a certain order, they would have brought together the laws having the same object, they would have produced something analogous to the code of Hammurabi, in which the laws follow on without any interruption. Instead of that, what do we see? An utter confusion of commandments, instructions, and laws, often interrupted by fragments of history which are intended to show their origin, or which are even narratives without any immediate connection with a commandment. A series of precepts is continually interrupted by these words:—"Yahveh spake again to Moses, saying:—Speak . . ." and these words introduce a precept or commandment, often quite a short one, and referring to quite a different matter from the one that immediately precedes it. Can we suppose that a school of priests and lawyers, forming an exclusive caste, and possessing a sacred building in which their worship was centralised, would regulate this

worship, not by a writing consisting of a collection of laws and ritual, but by a series of scattered pieces bound together by historical fragments, in which there are sometimes divergences, and in which may be found many repetitions? The authors of P, living in an epoch when the idea of history was understood, would have written a book. Their code would have had a settled plan, in which the matter would have been classified and arranged in sequence. Instead of that we have a text which is only comprehensible if we regard it as a collection of tablets written at different moments, and which have been put together and arranged without any very settled method.

Almost all the critics admit that the legislation of P is in keeping with the temple. Driver tells us that, founded on pre-existing customs in the temple, P gives us the form that these customs had taken at a later date. It is impossible for me to see in this assertion of the critics anything but a pre-conceived idea, and the settled intention at any cost to ascribe the Mosaic writings to a late epoch. The laws are for the priests of the temple. How is it then that the temple is not once mentioned? It is comprehensible that Moses could not do it, but how is it that the pious Israelite who wrote Deuteronomy and hid it in the temple did not once mention the house of God? How is it that the priests who added so many new recommendations to the laws they considered as Mosaic, did not do so either?

It is all the more strange as one of the prophets had spoken of the temple and composed a ritual which was intended for it. In the twenty-fifth year of the Captivity, Ezekiel had had a vision of the temple of Jerusalem. He described its form and gave its dimensions. To this temple was attached a whole staff of priests, Levites of the race of Zadok, who were to obey all the ordinances (*Khoukkoth*) of the house of Yahveh, and all the laws which he develops in detail, indicating the moment and the place when the ceremonies were to be celebrated. Thus we see that the Israelites of the epoch of the Captivity understood the ceremonial connected with a temple, and if they rebuilt their own, the ceremonial they would recognise would be that which had this new temple in view.

According to the critics the contrary is the case. P is posterior to Ezekiel and to the religious law of the prophet. The priests of the new temple must conform to very different ordinances, which answer to quite other conditions than those in which they live.

The law knows no temple, no fixed sanctuary, no house of Yahveh to which his name may be attached. It only speaks of a portable sanctuary which is shifted about in the course of the journey. The construction of it is arranged in detail. It is a tent made of such materials as could be procured in the wilderness, and of which the colour is indicated. The tabernacle is to shelter the Ark, which is the real sanctuary. Here again the



dimensions, the wood of which it is made, the golden lid (mercy seat) which covers it, the staves by which it was to be carried, the rings through which the staves are to be passed, all this is described twice over in almost identical terms, once as a project ordained unto Moses by Yahveh, a second time when its execution is related. Even the name of the skilled workman who did the work is reported. Now, in the new temple there was not only no tabernacle, there was not even an Ark. Thus all the ceremonial which binds the post-exilic priests refers to a sanctuary of which the smallest details are minutely described, but which no longer exists, and which is not likely to be re-established.

Besides, the greater part of the ordinances are made for the wilderness, and would be impracticable in the town of Jerusalem. In the Mosaic law, the people is always represented as a numerous tribe which moves about and journeys in the Wilderness until it attains the land in which it is to dwell. Until then its dwelling is a camp. What meaning could the expression "without the camp," which is so often repeated, have for the priests of the temple? (Leviticus vi. 11; viii. 17, etc.). Again, this would be quite natural if it were an ancient law dating from Moses, but on the contrary it is P that speaks in this way, the school of priests that drew up a law in view of the new temple. Many of these ordinances could only be carried out in a camp in the wilderness; and it is not a question of details of secondary

value, but on the contrary of ceremonies of the first importance, having a profound religious meaning. For instance, the scapegoat which was taken without the camp and sent forth into the wilderness. That was easy when it was enough to take the animal so far that it could not return and rejoin the flocks which accompanied the people; but how was it possible to send it into the wilderness from the platform of the temple?

Also what significance could there be for the priests of Jerusalem in all that was to take place at the entrance of the tent of meeting, and in all the convocations of the assembly near the tent? All that could have no meaning at all for them. And what use could there be in a law of ceremonial intended for a sanctuary which had ceased to exist, a law which had to be carried out in places that did not in the least resemble that in which the temple would be built, a temple which was not even mentioned? And, I repeat, it was not a question of reproducing ancient writings. Those parts of the law which are the most incompatible with the circumstances of the time and the locality, such as the description of the tabernacle, are said to be composed by priests of the new temple; and when Ezra read to the people who had just rebuilt the temple, the law which was to regulate the worship, a law which according to certain critics he had perhaps written himself, he taught them ordinances which ignored the temple whose reconstruction was for them the symbol of the national resurrection, ordinances which concerned a far distant past, and

a good number of which it was impossible to carry out.

What authority could this law have for his hearers, the Jews of that time, who were gathered round the new temple? It could have had no interest for them but that of curiosity, and it seems impossible that they could have felt themselves bound by commandments which concerned the tabernacle and the Ark, a sanctuary of the past which they had perhaps vaguely heard talked about, and by laws which were said to have been given in the name of Yahveh by a certain Moses who had left nothing in writing. As for their temple, since there was no mention of it in this law, they would conclude that the law had nothing to do with it, and that they need not trouble about it in their worship.

In conclusion, if we examine, according to the method which seems to us the right one, the Mosaic law, and above all the Priestly Code which the critics maintain to be the greater part of it, we come to this conclusion: The critical theory, and especially the composition of the document P, is in complete disagreement with "its supposed historical position as to time and place and circumstances" (Briggs). The place in which it is to be applied cannot be the temple at Jerusalem; the law is certainly previous to the construction of the temple; and as to the manner in which it was written, it could not have been conceived by a school of priests or lawyers who would have given their code quite another form. The only

thing which explains the form in which it has reached us, is the circumstances of the time and the character of the people as described to us in the book itself. Moses wrote the law on tablets in the course of the journey, and he finished his work by the discourses which form Deuteronomy. The Mosaic law was written by Moses and not by an arbitrary number of unknown authors, of whose existence we know nothing, not even their name, and of whom some, such as the Elohist and the Yahvist, belong to a category of writers unknown at the epoch in which they are said to have been active. In a word, the law of the Pentateuch is by Moses.

•

# FROM MR. THYNNES' LIST.

---

THE FAITH AND THE BOOK. The unity and completeness of the Divine Library in its construction and message. By HENRY CLARK. With an Appendix on Spiritism, Christian Science, etc. Illustrated with 24 outline diagrams. Demy 8vo., cloth, gilt, 7s. 6d. net.

FIELDER.—THE TRUTH OF THE BIBLE. A Course of Lectures on the authenticity and veracity of God's Holy Word. By the Rev. TREVOR FIELDER, Vicar of St. Luke's, Bedminster. Crown 8vo., cloth, 1s. 6d. net.

MARANATHA. SELECTIONS FOR DAILY READINGS FROM EMINENT PROPHETICAL WRITERS. Compiled by MAUD E. POWELL. Fourth Edition. Paper boards, 1s. 3d. net. Cloth, gilt, 2s. net.

IS ALL SCRIPTURE INSPIRED? AN ATTEMPT TO ANSWER THE QUESTION. By Bishop J. C. RYLE. With Quotations from Eminent Theologians. Third Edition. Paper boards, 1s. net.

"Bishop J. C. Ryle never wavered in his loyalty to Holy Scripture . . . his convincing arguments should be placed before our young people as widely as possible."—*English Churchman*.

BIBLICAL DISCOVERIES IN EGYPT, PALESTINE, AND MESOPOTAMIA. By Rev. J. POLITEYAN, B.A., F.R.G.S. With 16 full-page Illustrations. Cloth, gold-lettered, 4s. 6d. net.

"Among recent works for the popular dissemination of Biblical Archæology this book takes a prominent place."—*The Christian*.

GREAT PRINCIPLES OF DIVINE TRUTH. The Inspiration, Supremacy, and Sufficiency of Holy Scripture, etc. By Canon EDWARD HOARE, M.A., sometime Vicar of Holy Trinity, Tunbridge Wells. Cloth, gilt, 5s. net.

## WORKS BY DEAN WACE.

---

SOME QUESTIONS OF THE DAY. National, Ecclesiastical and Religious. Second Series. By HENRY WACE, D.D., of Canterbury. Demy 8vo., cloth, gilt, 5s. net.

SOME QUESTIONS OF THE DAY. Biblical, National and Ecclesiastical First Series. Portrait. Demy 8vo., cloth, gilt, 5s. net.

THE WAR AND THE GOSPEL. Sermons and addresses during the Great War. Crown 8vo., cloth, 3s. 6d. net.

PROPHECY: JEWISH AND CHRISTIAN. Considered in a Series of Warburton Lectures at Lincoln's Inn. 8vo., cloth, 2s. 6d. net.

---

THE CHRISTIAN SANCTION OF WAR. 1d.

THE ATONEMENT. Its supreme practical importance. 2d.

RELIGION AND THE WAR. 3d.

ESTIMATE AND USE OF HOLY SCRIPTURE IN THE CHURCH OF ENGLAND. 2d.

THE MAIN PURPOSE AND CHARACTER OF THE XXXIX. ARTICLES. 2d.

THE CHURCH OF ENGLAND AND ROMAN VESTMENTS. 2d.

---

LONDON: CHAS. J. THYNNE.

21  
C 1243 B





UNIVERSITY OF CALIFORNIA LIBRARY

Los Angeles

This book is DUE on the last date stamped below.

~~NO PHONE RENEWALS~~

FEB 27 1987



AA 000 381 748 3



